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U.S. BANKRUPTCY
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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

In re:	:	Case No. 21-22650-GLT
	:	
ANDREW LANCOS, JR. and	:	Chapter 13
CAROL ANN LANCOS,	:	
	:	
	:	
Debtors.	:	Related to Dkt. No. 1, 26, 27, 30
	:	

Edgardo D Santillan, Esq.
Santillan Law, PC
Aliquippa, PA
Attorney for the Debtors

James C. Warmbrodt, Esq.
Office of the Chapter 13 Trustee
Pittsburgh, PA
Attorney for Ronda J. Winnecour

MEMORANDUM OPINION

Andrew and Carol Lancos claim combined exemptions in a 2020 Mercedes Benz GLB 250, consisting of \$8,000 under 11 U.S.C. § 522(d)(2) and \$26,800 under 11 U.S.C. § 522(d)(5).¹ The exemptions are significant because the vehicle is unencumbered and has a scheduled value of \$44,000.² Ronda J. Winnecour, the chapter 13 trustee, objects to Carol's exemptions, asserting that she has no exemptible interest in the Mercedes because it is titled solely in Andrew's name.³ In response, the Debtors argue that Carol Lancos "possesses a marital / equitable interest in [the] Mercedes" under Pennsylvania law.⁴ At the hearing to consider the *Objection*, the parties agreed that the material facts are not in dispute and they declined an opportunity to present evidence.

¹ *Amended Schedule C: The Property You Claim as Exempt* ("Schedule C"), Dkt. No. 26.

² *Schedule A/B: Property*, Dkt. No. 1.

³ *Objection of Chapter 13 Trustee to Debtors' Claim of Exemptions* ("Objection"), Dkt. No. 27. The Trustee contends that the true value of "[t]he maximum available [§ 522](d)(2) exemption is therefore \$4,000.00, and the maximum [§ 522](d)(5) exemption available is therefore \$13,900."

⁴ *Response to Trustee Objection to Exemptions*, Dkt. No. 30 at 3 (citing 23 Pa. Stat. Ann. 3501(a)).

I. JURISDICTION

This Court has authority to exercise jurisdiction over the subject matter and the parties pursuant to 28 U.S.C. §§ 157(a), 1334, and the Order of Reference entered by the United States District Court for the Western District of Pennsylvania on October 16, 1984. This is a core proceeding under 28 U.S.C. § 157(b)(2)(B).

II. DISCUSSION

Congress crafted exemptions within the Bankruptcy Code to ensure that a debtor emerges from bankruptcy “with adequate possessions to begin his fresh start.”⁵ Functionally, an exemption removes a debtor’s interest in property from the bankruptcy estate and places it “outside the reach of creditors.”⁶ Debtors are “allowed to ‘stack’ or ‘double’ their exemptions . . . [but] only to the extent that the debtors may each have a legal or equitable interest in the exempted property.”⁷ Indeed, as noted by *In re Zellner*, “multiple courts support the notion that without an ownership interest in property, a debtor may not claim an exemption in that property.”⁸ Courts

⁵ In re Scarpino, 113 F.3d 338, 340 (2d Cir.1997 (citing H.R.Rep. No. 95–595, at 126, reprinted in 1978 U.S.C.C.A.N. at 5963, 6087); see also In re Malloy, No. BR 14-17727, 2017 WL 3413004, at *3 (E.D. Pa. Aug. 9, 2017) (citing In re Cohen, 263 B.R. 724 (Bankr. D.N.J. 2001), for the proposition that “Congress sought to ‘ensure that debtors [could come out of bankruptcy with adequation possessions to obtain a fresh start.’”).

⁶ Naqvi v. Fisher, 192 B.R. 591, 594 (D.N.H. 1995).

⁷ In re Malloy, 2017 WL 3413004, at *3.

⁸ In re Zellner, No. 5-15-BK-01286 RNO, 2020 WL 1181337, at *8 (Bankr. M.D. Pa. Mar. 11, 2020); see also Matter of Newman, 875 F.2d 668, 670 (8th Cir. 1989) (citations omitted); In re Johnson, 565 B.R. 835, 841 (Bankr. S.D. Ohio 2017) (citations omitted); In re Rincan, 2010 WL 4777628, at *1 (Bankr. D.N.J. Nov. 17, 2010); In re Keenan, 364 B.R. 786, 798 (Bankr. D.N.M. 2007) (citations omitted); In re Shephard, 2007 WL 1385725, at *2 (Bankr. D.N.M. May 7, 2007) (citations omitted); In re Cohen, 263 B.R. at 726-27.

have further held that “an interest in property implies a monetary interest, and something more than a mere right to use” must be shown.⁹

A claimed objection is presumptively valid.¹⁰ Accordingly, an objecting party bears the burden of proving the exemptions are not properly claimed.¹¹ “If the objecting party can produce evidence to rebut the exemption, the burden of production then shifts to the debtor to come forward with unequivocal evidence to demonstrate that the exemption is proper.”¹² The objecting party satisfies this burden by a preponderance of the evidence.¹³

The Trustee argues that a combined exemption may be claimed only if the debtors both maintain a legal interest in the subject property.¹⁴ Here, the Trustee argues that because Carol’s name is absent from the vehicle’s certificate of title, she maintains no exemptible legal interest in the property and the objection must be sustained. The Trustee relies on two cases—*In re Gorski* and *In re Cohen*—for the proposition that debtors cannot claim a combined exemption without joint ownership or a valid tenancy by the entireties holding title to the property.¹⁵ In *Gorski*, the court sustained an objection to exemptions claimed by joint debtors because the entireties tenancy was severed prepetition.¹⁶ Similarly in *Cohen*, the court held that a combined

⁹ In re Cohen, 263 B.R. at 726; see also Matter of Cunningham, 5 B.R. 709, 711 (Bankr. D.Mass. 1980); In re Hartman, 211 B.R. 899, 903 (Bankr. C.D.Ill. 1997) (citing Matter of Freund, 32 B.R. 622 (Bankr. W.D.Wisc. 1983)).

¹⁰ 11 U.S.C. § 522(l); see In re Yanovich, 544 B.R. 306, 308 (Bankr. W.D. Pa. 2016).

¹¹ Fed. R. Bankr. P. 4003(c).

¹² In re Scioli, No. 12-10572 CSS, 2013 WL 318718, at *2 (Bankr. D. Del. Jan. 28, 2013), subsequently aff’d, 586 F. App’x 615 (3d Cir. 2014) (internal quotation marks omitted).

¹³ In re LeClair, 461 B.R. 86, 90 (Bankr. D. Mass. 2011).

¹⁴ See Objection, Dkt. No. 27 at ¶ 4.

¹⁵ See In re Gorski, 85 B.R. 371 (Bankr. W.D. Pa. 1988); In re Cohen, 263 B.R. 724.

¹⁶ In re Gorski, 85 B.R. at 372.

exemption cannot stand when co-debtors concede that one of the debtors never held an ownership interest in the subject property.¹⁷

The Debtors argue that the “bankruptcy estate generally is comprised of all legal and equitable interests of the debtor in property [on the petition date].”¹⁸ Because “a debtor’s interest in property is determined by state law,”¹⁹ the Debtors assert that the Mercedes is “marital property” under Pennsylvania law and belongs to them jointly, regardless of the name on the title.²⁰ They cite a Pennsylvania divorce statute in support and further argue that “[s]ince Carol Lancos’ interest in the vehicle is marital, it is then entireties.”²¹ The Debtors hedge their argument by concluding that “[a]t a minimum, [Carol’s] interest is equitable as she is the primary driver of the vehicle.”²²

Under Pennsylvania law, the certificate of title establishes “some evidence of ownership [of a vehicle.]”²³ Yet Carol is not listed on the title for the Mercedes. Nor is there evidence that the Debtors hold the Mercedes together as tenants by the entireties. “A tenancy by the entireties requires a legally binding marriage plus the satisfaction of all four unities”—time,

¹⁷ In re Cohen, 263 B.R. at 726.

¹⁸ *Response to Trustee Objection to Exemptions*, Dkt. No. 30 at ¶ 5.

¹⁹ Id. (citing Butner v. United States, 440 U.S. 48, 55 (1979)).

²⁰ Id. at 3 (wherein the Debtors paraphrase 23 Pa. C.S. § 3501 for the proposition that “[m]arital property includes all property that was acquired during the marriage, regardless of how it is titled.”).

²¹ Id.

²² See id. The Debtors further justify the omission of Carol’s name from the title because “she was not available at the time of the transaction.”

²³ Semple v. State Farm Mut. Auto. Ins. Co., 215 F.Supp. 645, 647 (E.D. Pa. 1963); Habbyshaw v. Com., Dep’t of Transp., Bureau of Driver Licensing, 683 A.2d 1281, 1283 (Pa. Commw. Ct. 1996) (citing Dep’t of Transp. v. Walker, 584 A.2d 1080, 1082 (Pa. Commw. Ct. 1990)).

title, possession, and interest.²⁴ Here, the record shows that the Debtors did not obtain title by the same instrument at the same time they took possession of the Mercedes. In fact, Carol did not obtain title at all. Without unity of title, the Mercedes cannot be held by the Debtors as tenants by the entireties. At best, Carol may have a possessory interest in the vehicle because she is allegedly the primary user. As previously noted, however, a mere right to use property is insufficient to establish an exemptible interest under the federal bankruptcy exemptions. A debtor must have an ownership interest in an asset to claim an exemption.²⁵ Because the Debtors failed to produce “unequivocal evidence” proving that Carol maintains a cognizable interest in the Mercedes beyond a mere right to use, she cannot assert an exemption in the vehicle.

III. CONCLUSION

In light of the foregoing, the Court will sustain the *Objection* and strike the exemptions claimed by Carol in the Mercedes. This opinion constitutes the Court’s findings of fact and conclusions of law in accordance with Fed. R. Bankr. P. 7052. The Court will issue a separate order consistent with this opinion.

ENTERED at Pittsburgh, Pennsylvania.

Dated: June 23, 2022


GREGORY J. TADDONIO^{nss}
UNITED STATES BANKRUPTCY JUDGE

Case administrator to mail to:
Debtors

²⁴ In re Estate of Rivera, 2018 Pa. Super. 225, 194 A.3d 579, 586 (Pa. Super. 2018) (citing Fenderson v. Fenderson, 454 Pa. Super. 412, 685 A.2d 600, 607 (Pa. Super. 1996)). The Superior Court described the unities as follows:

Unity of time requires that the interests of the tenants vest at the same time. Unity of title requires the tenants to have obtained their title by the same instrument. . . . Unity of possession requires the tenants to have an undivided interest in the whole estate. . . . Unity of interest requires the tenants to have estates in the property of the same type, duration and amount.

Id.

²⁵ See also In re Frankel, 508 B.R. 527, 531 (Bankr. D. Mass. 2014).

In re:
Andrew Lancos, Jr.
Carol Ann Lancos
Debtors

Case No. 21-22650-GLT
Chapter 13

CERTIFICATE OF NOTICE

District/off: 0315-2
Date Rcvd: Jun 23, 2022

User: auto
Form ID: pdf900

Page 1 of 3
Total Noticed: 40

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.
^	Addresses marked '^' were sent via mandatory electronic bankruptcy noticing pursuant to Fed. R. Bank. P. 9036.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jun 25, 2022:

Recip ID	Recipient Name and Address
db/jdb	+ Andrew Lancos, Jr., Carol Ann Lancos, 109 Cristy Drive, Monaca, PA 15061-2526
cr	+ Lakeview Loan Servicing, LLC enote vesting-- Natio, 8950 Cypress Waters Boulevard, Coppell, TX 75019-4620
15439194	AmeriGas-Aliquippa, PO Box 371473, Pittsburgh, PA 15250-7473
15439196	+ Clearview FCU, 1453 Beers School Road, P.O. Box 1289, Moon Township, PA 15108-1289
15439201	+ Global Payments, PO Box 66118, Chicago, IL 60666-0097
15439202	Heritage Valley Health System, Sewickley Valley Hospital, 720 Blackburn Road, Sewickley, PA 15143-1498
15439204	+ KML Law Group, PC, Suite 5000, 701 Market Street, Philadelphia, PA 19106-1541
15439205	Lakeview, PO Box 619063, Dallas, TX 75261-9063
15439210	+ M & T Bank / Lakeview, Attn: Bankruptcy, Po Box 844, Buffalo, NY 14240-0844
15439211	+ Peoples Natural Gas, PO Box 644760, Pittsburgh, PA 15264-4760
15439213	+ Radius Glob al Solutions LLC, 7831 Glenroy Road, Suite 250-A, Minneapolis, MN 55439-3132

TOTAL: 11

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID	Notice Type: Email Address	Date/Time	Recipient Name and Address
cr	+ Email/PDF: rmscedi@recoverycorp.com	Jun 23 2022 23:45:54	PRA Receivables Management, LLC, PO Box 41021, Norfolk, VA 23541-1021
cr	+ Email/Text: ebnpeoples@grblaw.com	Jun 23 2022 23:36:00	Peoples Natural Gas Company LLC, GRB Law, c/o Jeffrey R. Hunt, Esquire, 525 William Penn Place, Suite 3110, Pittsburgh, PA 15219, UNITED STATES 15219-1753
15439195	+ Email/PDF: AIS.cocard.ebn@aisinfo.com	Jun 23 2022 23:45:54	Capital One, Attn: Bankruptcy, Po Box 30285, Salt Lake City, UT 84130-0285
15444193	+ Email/Text: bankruptcy@clearviewfcu.org	Jun 23 2022 23:36:00	Clearview FCU, 8805 University Blvd, Moon Township, PA 15108-4212
15439197	Email/Text: documentfiling@lciinc.com	Jun 23 2022 23:36:00	Comcast, P.O. Box 173885, Denver, CO 80217-3885
15439198	+ Email/Text: BNC-ALLIANCE@QUANTUM3GROUP.COM	Jun 23 2022 23:36:00	Comenity Capital Bank/Bosco, Attn: Bankruptcy Dept., PO Box 182125, Columbus, OH 43218-2125
15439199	Email/Text: kbarkley@bernsteinlaw.com	Jun 23 2022 23:37:00	Duquense Light, Payment Processing Center, Pittsburgh, PA 15267-0001
15455808	+ Email/Text: jdryer@bernsteinlaw.com	Jun 23 2022 23:36:00	Duquesne Light Company, c/o Bernstein-Burkley, P.C., 601 Grant Street, 9th Floor, Pittsburgh, PA 15219-4430
15439200	+ Email/Text: ECMCBKNotices@ecmc.org	Jun 23 2022 23:36:00	ECMC Group, Attn: Bankruptcy, 111 Washington Ave South, Ste 1400, Minneapolis, MN 55401-6800
15454640	Email/Text: ECMCBKNotices@ecmc.org	Jun 23 2022 23:36:00	Educational Credit Management Corporation, P.O.

District/off: 0315-2

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Date Rcvd: Jun 23, 2022

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15439203	Email/Text: sbse.cio.bnc.mail@irs.gov	Jun 23 2022 23:36:00	Box 16408, St. Paul, MN 551160408 Internal Revenue Service, PO Box 7346, Philadelphia, PA 19101-7346
15439206	Email/Text: ktramble@lendmarkfinancial.com	Jun 23 2022 23:36:00	Lendmark Financial Services, LLC, 2118 Usher Stret, Covington, GA 30014
15439207	+ Email/PDF: resurgentbknotifications@resurgent.com	Jun 23 2022 23:45:59	LVNV Funding, PO Box 10497, Greenville, SC 29603-0497
15441722	Email/PDF: resurgentbknotifications@resurgent.com	Jun 23 2022 23:45:55	LVNV Funding, LLC, Resurgent Capital Services, PO Box 10587, Greenville, SC 29603-0587
15439208	+ Email/Text: paparalegals@pandf.us	Jun 23 2022 23:37:00	LVNV Funding, LLC, c/o Patenaude & Felix, A.P.C., 501 Corporate Drive, Southpointe Center, Ste 205, Canonsburg, PA 15317-8584
15439209	Email/PDF: resurgentbknotifications@resurgent.com	Jun 23 2022 23:45:55	LVNV Funding/Resurgent Capital, PO Box 10587, Greenville, SC 29603-0587
15447555	^ MEBN	Jun 23 2022 23:34:48	Lakeview Loan Servicing, LLC, c/o M&T Bank, P.O. Box 840, Buffalo, NY 14240-0840
15442342	+ Email/Text: bankruptcydpt@mcmcg.com	Jun 23 2022 23:36:00	Midland Credit Management, Inc., PO Box 2037, Warren, MI 48090-2037
15439212	Email/PDF: PRA_BK2_CASE_UPDATE@portfoliorecovery.com	Jun 23 2022 23:45:58	Portfolio Recovery Associates, LLC, Attn: Bankruptcy, 120 Corporate Boulevard, Norfolk, VA 23502
15453921	Email/PDF: PRA_BK2_CASE_UPDATE@portfoliorecovery.com	Jun 23 2022 23:46:03	Portfolio Recovery Associates, LLC, POB 12914, Norfolk VA 23541
15454505	+ Email/Text: ebnpeoples@grblaw.com	Jun 23 2022 23:36:00	Peoples Natural Gas Company LLC, c/o GRB Law, Jeffrey R. Hunt, Esquire, 525 William Penn Place, Suite 3110, Pittsburgh, PA 15219-1753
15470135	Email/Text: bnc-quantum@quantum3group.com	Jun 23 2022 23:36:00	Quantum3 Group LLC as agent for, MOMA Trust LLC, PO Box 788, Kirkland, WA 98083-0788
15439214	+ Email/PDF: resurgentbknotifications@resurgent.com	Jun 23 2022 23:45:55	Resurgent Capital Services, Attn: Bankruptcy, Po Box 10497, Greenville, SC 29603-0497
15439215	Email/Text: clientservices@sourcerm.com	Jun 23 2022 23:36:00	Source RM, 4615 Dundas Drive, Suite 102, Greensboro, NC 27407
15439217	+ Email/Text: bankruptcy@sw-credit.com	Jun 23 2022 23:36:00	SWC Group, 4120 International Parkway #100, Carrollton, TX 75007-1957
15439216	Email/Text: bankruptcy@sw-credit.com	Jun 23 2022 23:36:00	Southwest Credit, 4120 International Pkwy, Suite 11000, Carrollton, TX 75007-1958
15439700	+ Email/PDF: gecsed@recoverycorp.com	Jun 23 2022 23:45:53	Synchrony Bank, c/o of PRA Receivables Management, LLC, PO Box 41021, Norfolk, VA 23541-1021
15439218	+ Email/PDF: gecsed@recoverycorp.com	Jun 23 2022 23:46:03	Synchrony Bank/Sams Club, Attn: Bankruptcy, PO Box 965060, Orlando, FL 32896-5060
15439219	+ Email/Text: bankrupt-adjdept@wesbanco.com	Jun 23 2022 23:36:00	Wesbanco Bank, Inc., 1 Bank Plaza, Wheeling, WV 26003-3565

TOTAL: 29

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cr		LAKEVIEW LOAN SERVICING, LLC
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TOTAL: 1 Undeliverable, 1 Duplicate, 0 Out of date forwarding address

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NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jun 25, 2022

Signature: /s/Gustava Winters**CM/ECF NOTICE OF ELECTRONIC FILING**

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on June 23, 2022 at the address(es) listed below:

Name	Email Address
Brian Nicholas	on behalf of Creditor LAKEVIEW LOAN SERVICING LLC bnicholas@kmlawgroup.com
Edgardo D Santillan	on behalf of Debtor Andrew Lancos Jr. ed@santillanlaw.com, edscourt@debtlaw.com,edscourt@gmail.com,650corpst304bknotbackup15009@gmail.com,eds@debtlaw.com,eds.mycemail@gmail.com,r53999@notify.bestcase.com
Edgardo D Santillan	on behalf of Joint Debtor Carol Ann Lancos ed@santillanlaw.com edscourt@debtlaw.com,edscourt@gmail.com,650corpst304bknotbackup15009@gmail.com,eds@debtlaw.com,eds.mycemail@gmail.com,r53999@notify.bestcase.com
Jeffrey Hunt	on behalf of Creditor Peoples Natural Gas Company LLC ecpeoples@grblaw.com PNGbankruptcy@peoples-gas.com
Keri P. Ebeck	on behalf of Creditor Duquesne Light Company kebeck@bernsteinlaw.com jbluemle@bernsteinlaw.com
Matthew Fissel	on behalf of Creditor Lakeview Loan Servicing LLC enote vesting-- Nationstar Mortgage LLC d/b/a Mr. Cooper matthew.fissel@brockandscott.com
Office of the United States Trustee	ustpreion03.pi.ecf@usdoj.gov
Ronda J. Winnecour	cmecf@chapter13trusteewdpa.com

TOTAL: 8